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The Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: M.C. General, Inc.

File: B-228334

Date: December 9, 1987

DIGEST

A bid in which the first article unit prices were approximately 15 and 17 times greater than the unit prices for the production items was properly rejected as materially unbalanced where the first articles were initial samples identical to the production units and the difference in the amount bid could not be attributed to costs associated with the first articles, since acceptance of such a bid would result in the payment of funds early in the contract period, tantamount to an advance payment or interest-free loan, to which a bidder is not entitled with respect to the actual value of the first articles.

DECISION

M.C. General, Inc. (MCG), protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. DAAH01-87-B-0068 issued by the Department of the Army for pallet bases and pallet tops. The Army determined that MCG's bid was nonresponsive due to material unbalancing of the bid and MCG's failure to bid on certain items.

We deny the protest.

The IFB called for a total production quantity of 705 each of the pallet bases and tops, with options to acquire additional quantities of each item. The IFB also provided for submission of first article test units for both items. Bidders were to submit separate prices for the first articles; the production quantity of the items with first articles; and the production quantity without first articles. The Army reserved the right to award the production quantity and corresponding first article, or if the requirement for submission of first article was waived by the government, to award the production quantity only. With regard to the first articles, the IFB cautioned bidders that the first article bid prices had to be mathematically

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balanced in relation to the total bid price, stating specifically that "the proposed First Article price must bear a reasonable and logical relationship to the costs plus profit which are associated with it." The IFB also stated that a determination by the government that the first article was mathematically unbalanced when compared to total price could result in the rejection of the bid.

MCG submitted the lowest unit prices for the production quantity with first articles for both the pallet bases and tops. The contracting officer determined, however, that MCG's bid prices for the first articles were grossly inflated. Specifically, MCG bid \$638.17 per first article for the pallet tops, approximately 17 times the bid per production item of \$39.83. MCG's bid for pallet bases was \$1,830 per first article, approximately 15 times the bid per production item of \$123.73. The contracting officer found that the prices were greatly in excess of the value of the first articles and did not bear a reasonable and logical relationship to the costs plus profit which were associated with them. As a result, the contracting officer rejected MCG's bid as materially unbalanced. As explained in detail below, we find that the Army properly rejected MCG's bid as materially unbalanced.

A bid which is mathematically unbalanced in the extreme because it grossly front-loads first article prices is per se materially unbalanced and should be rejected, even if the bid is low. Accepting such a bid would result in the payment of funds early in the contract period, tantamount to an advance payment or interest-free loan, to which the bidder is not entitled with respect to the actual value of the first articles. Islip Transformer & Metal Co., Inc., B-225257, Mar. 23, 1987, 87-1 C.P.D. ¶ 327.

In determining whether or not a first article is improperly front-loaded, our Office will look to see if there is a significant difference in the scope and nature of the work required to produce the first articles on the one hand, and the production items on the other. Microtech, Inc., B-225892, Apr. 29, 1987, 87-1 C.P.D. ¶ 453. In our view, a significant difference does not exist where the first articles are simply initial samples identical to the production units, the sole purpose of which is to ensure that items conforming to the IFB's requirements will be furnished upon commencement of full production and where the first articles, if not destroyed during testing, will be delivered as end items indistinguishable from production units. Nebraska Aluminum Castings, Inc., B-222476, June 24, 1986, 86-1 C.P.D. ¶ 582.

Here, the Army states that the first articles are merely initial samples identical to the production units and, under section I-2, paragraph (e)(1) of the IFB, the contractor could deliver the first articles as part of the contract production quantity provided they meet all contract requirements for acceptance. As a result, we see no reasonable basis, with regard to the scope and nature of the items, for the disparity in price between the first articles and the production quantity. As noted above, the IFB specifically cautioned bidders against submitting bids with unbalanced first article prices and stated that such bids could be rejected. Despite this warning, MCG submitted a bid with grossly inflated first article prices, which, consistent with the IFB, the Army found should be rejected as unbalanced. We recognize, as MCG states, that its bid for the first articles represent less than 7 percent of the total bid. However, the percentage differential between the first article price and total bid price is not determinative of the unbalancing issue; instead, it is the disproportionate relationship between first article pricing and first article value that is controlling. Nebraska Aluminum Castings, Inc., B-222476, supra.

MCG also alleges that its first article price included the costs associated with "scrap and learning", including a pre-production phase. MCG describes this process as consisting of an in-house first article evaluation to prove production methods and maintain quality control and includes the delivery of the first article to the government. Although MCG recognizes that all costs related to pre-production and ongoing quality control must be allocated to the total units to be delivered, not just the first articles, it maintains that the manner in which these costs are allocated within the company are not a proper concern for the government. We find MCG's argument to be without merit.

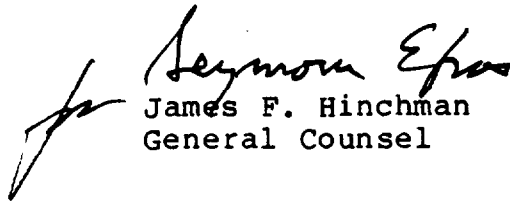
Contrary to MCG's contention, only the pre-production and on-going quality costs for the first articles may be included in the first article price; where costs necessary to produce first articles are also a necessary investment in the production quantity itself, the costs should be amortized over the total contract rather than solely to the first articles. See Nebraska Aluminum Castings, Inc., B-222476, supra. Further, it is proper for the government to ensure that a bidder's bid is not unbalanced. An award to a bidder with inflated first article prices would compromise the government's rights under the contract by

creating an undesirable financial risk, should contingencies arise after the first articles have been accepted and paid for, that would ordinarily require termination of a contract. Id.

Since the record fails to show any justification for the gross disparity between the first article and production quantity prices, we find that the Army properly rejected MCG's bid as materially unbalanced.

Finally, the Army also maintains that MCG's bid was nonresponsive because MCG failed to enter a price for the production quantity of the items without first articles; the bid included prices only for the first articles and the production quantity with first articles. We need not address this argument, however, since, as discussed above, we find that the bid properly was rejected as materially unbalanced.

The protest is denied.


James F. Hinchman
General Counsel